

FILED

AUG 5 2020

U.S. DISTRICT COURT-WVND
WHEELING, WV 26003

UNITED STATES OF AMERICA,

v.

PHILLIP W. CONLEY,

Defendant.

Criminal No. 1:20 CR 35

Violations: 18 U.S.C. § 1341
17 C.F.R. § 240.10b-5
15 U.S.C. § 78j(b)
15 U.S.C. § 78ff(a)

INDICTMENT

The Grand Jury charges that:

At all times relevant to this Indictment:

The Scheme to Defraud

1. The defendant **PHILLIP W. CONLEY** portrayed himself as an investment advisor living and working out of Morgantown and Kingwood, West Virginia, Washington, D. C., and Virginia.
2. He formed and operated a limited liability company known by the name of Alpax, LLC, which was associated with other companies operated by defendant **PHILLIP W. CONLEY** known as Alpax Partners VI LP and Alpax holdings, LLC.
3. Defendant **PHILLIP W. CONLEY** developed a scheme to defraud investors of money by giving him and his companies money for him to invest for the purpose of seeking returns on the victims' investments.
4. The victims included churches, pastors and at least one congregant or parishioner, as well as his adoptive mother and step-father.
5. To induce the victims to provide money to him and his companies to invest for the victims, the defendant **PHILLIP W. CONLEY** made materially false and fictitious statements to

the victims concerning where their investments would be placed and the rate of return they would receive on their investments, and he lulled them into believing they were receiving a return on their investments by periodically providing them materially false and fictitious dividend statements through the United States mail and through email wire communications.

6. Beginning in or about January 2014, the exact date being unknown to the grand jury and continuing until in or about 2019, the defendant **PHILLIP W. CONLEY** fraudulently obtained approximately \$5,200,000 to make investments for approximately 18 victims, but he invested little or none of that money and spent much of that money on private jet flights, expensive meals, clothes, jewelry, housing and living expenses for himself, returning only about \$210,000 to the victims.

COUNTS ONE THROUGH SIX

(Mail fraud counts)

7. Paragraphs 1 through 6 of the Introduction are re-alleged and incorporated as though fully set forth herein.
8. Beginning in or about January 2014, the exact date being unknown to the grand jury and continuing until in or about 2019, in Monongalia County, in the Northern District of West Virginia, and elsewhere, the defendant **PHILLIP W. CONLEY**, knowingly and willfully executed and attempted to execute a scheme and artifice to defraud the victims of money and to obtain, by means of materially false and fraudulent pretenses, representations and promises, money of the victims.
9. On or about the dates set forth in the chart below, each such date constituting a separate count of this Indictment, in the Northern District of West Virginia (“NDWV”) and

elsewhere, the defendant **PHILLIP W. CONLEY**, having devised and intending to devise the above scheme and artifice to defraud, and for obtaining money by means of materially false and fraudulent pretenses, representations, and promises, for the purpose of executing such scheme and artifice and attempting so to do, placed and caused to be placed in any post office and authorized depository for mail matter, matters and things whatever to be sent and delivered by the Postal Service, and deposited and caused to be deposited matters and things whatever to be sent and delivered by any private and commercial interstate carrier, and took and received therefrom, any such matters and things, and knowingly caused to be delivered by mail and such carrier according to the direction thereon, and at the place at which it was directed to be delivered by the person to whom it was addressed, such matters and things; in violation of Title 18, United States Code, Section 1341.

Count	Date	Mail Matter	To	From
1	January 25, 2017	Dividend statement mailed	R.M. in Marion County, West Virginia	Alpax LLC in Monongalia County, West Virginia
2	January 25, 2017	Dividend statement mailed	R.D. in Maryland	Alpax LLC in Monongalia County, West Virginia
3	April 26, 2017	Dividend statement mailed	R.M. in Marion County, West Virginia	Alpax LLC in Monongalia County, West Virginia
4	April 26, 2017	Dividend statement mailed	R.D. in Maryland	Alpax LLC in Monongalia County, West Virginia
5	October 27, 2017	Dividend statement mailed	R.D. in Maryland	Alpax LLC in Monongalia County, West Virginia
6	November 8, 2017	Dividend statement mailed	R.M. in Marion County, West Virginia	Alpax LLC in Monongalia County, West Virginia

COUNT SEVEN

(Securities Fraud)

1. Paragraphs 1 through 6 of the Introduction are re-alleged and incorporated as though fully set forth herein.
2. Beginning in or about January 2014, the exact date being unknown to the grand jury and continuing until in or about 2019, in Monongalia County, in the Northern District of West Virginia, and elsewhere, the defendant **PHILLIP W. CONLEY**, knowingly, and willfully, by the use of the means and instrumentalities of interstate commerce and the mails, directly and indirectly, used and employed deceptive and manipulative devices and contrivances in connection with the offer and sale of securities, by: (a) employing devices, schemes, and artifices to defraud; (b) making untrue statements of material facts and omitting to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading; and (c) engaging in transactions, acts, practices, and courses of business which operated and would operate as a fraud and deceit upon persons in connection with the purchase and sale of securities, that is purported investments in various types of securities through his company, Alpax, LLC, in violation of Title 15, United States Code, Section 78j(b) and 78ff(a), and Title 17, Code of Federal Regulations, Section 240.10-b5.

FORFEITURE ALLEGATION

*Mail Fraud
Securities Fraud*

1. Pursuant to Title 28, United States Code, Section 2461(c), Title 18, United States Code, Sections 981(a)(1)(C), 1956(c)(7)(A), 1961(1), and Title 21, United States Code, Section 853, the government will seek the forfeiture of property as part of the sentence imposed in this case; that is, the forfeiture of any property, real or personal, which constitutes or is derived from proceeds traceable to a violation of Title 18, United States Code, Section 1341, or Title 15, United States Code, Section 78ff(a), or a conspiracy to violate such offense, including a money judgment in the amount of at least \$4,990,000.

2. Pursuant to Title 28, United States Code, Section 2461(c), the government will seek forfeiture of substitute property up to the value of property subject to direct forfeiture that is not available for forfeiture on account of any act or omission contemplated by Title 21, United States Code, Section 853(p)(1).

A True Bill:

/s/
Foreperson

/s/
WILLIAM J. POWELL
United States Attorney

Danae DeMasi-Lemon
Assistant United States Attorney

Robert H. McWilliams, Jr.
Assistant United States Attorney